

## DECLARATION AND POWER OF ATTORNEY

As the below-named inventors, we declare that:

Our residences, post office addresses, and citizenships are as stated below under our names.

We believe we are the original, first, and joint inventors of the invention entitled "CYCLIC DECAPEPTIDE ANTIBIOTICS," which is described and claimed in the specification and claims of Patent Application No. 09/043,813, which we filed in the United States Patent and Trademark Office on March 25, 1998, and for which a patent is sought.

We have reviewed and understand the contents of the foregoing specification, including the claims, as amended by any amendment specifically referred to herein (if any).

We acknowledge our duty to disclose information of which we are aware which is material to the patentability and examination of this application in accordance with 37 C.F.R. § 1.56(a).

We hereby claim priority benefits under 35 U.S.C. §§ 119 and 120 of the PCT international application and United States applications listed below.

PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119 AND 120:			
COUNTRY	APPLICATION NUMBER	DATE OF FILING	PRIORITY CLAIMED UNDER 35 USC 119 AND 120
PCT	PCT/CA97/00529	July 25, 1997	Yes
US	08/687,736	July 26, 1996	Yes
US	60/022,684	July 26, 1996	Yes
US	08/687,741	July 26, 1996	Yes
US	60/022,824	July 26, 1996	Yes
US	08/751,300	October 31, 1996	Yes

We hereby appoint RICHARD W. SEED, Reg. No. 16,557; ROBERT J. BAYNHAM, Reg. No. 22,846; EDWARD W. BULCHIS, Reg. No. 26,847; GEORGE C. RONDEAU, JR., Reg. No. 28,893; DAVID H. DEITS, Reg. No. 28,066; WILLIAM O. FERRON, JR., Reg. No. 30,633; PAUL T. MEIKLEJOHN, Reg. No. 26,569; DAVID J. MAKI, Reg. No. 31,392; RICHARD G. SHARKEY, Reg. No. 32,629; DAVID V. CARLSON, Reg. No. 31,153; MAURICE J. PIRO, Reg. No. 33,273; KARL R. HERMANN, Reg. No. 33,507; DAVID D. MCMASTERS, Reg. No. 33,963; ROBERT IANNUCCI, Reg. No. 33,514; MICHAEL J. DONOHUE, Reg. No. 35,859; CHRISTOPHER J. DALEY-WATSON, Reg. No. 34,807; STEVEN D. LAWRENZ, Reg. No. 37,376; ROBERT G. WOOLSTON, Reg. No. 37,263; ELLEN M. BIERMAN, Reg.

No. 38,079; BRYAN A. SANTARELLI, Reg. No. 37,560; CAROL NOTTENBURG, Reg. No. 39,317; CRAIG S. JEPSON, Reg. No. 33,517; PAUL T. PARKER, Reg. No. 38,264; JOHN C. STEWART, Reg. No. 40,188; DAVID W. PARKER, Reg. No. 37,414; ROBERT E. MATES, Reg. No. 35,271; BRIAN G. BODINE, Reg. No. 40,520; FRANK ABRAMONTE, Reg. No. 38,066; E. RUSSELL TARLETON, Reg. No. 31,800; FREDERICK M. FLIEGEL, Reg. No. 36,138; JAN C. L. MAXWELL, Reg. No. 41,181; THOMAS L. EWING, Reg. No. 34,328; CLIFTON G. GREEN, Reg. No. 41,044; KEVIN S. COSTANZA, Reg. No. 37,801; DALE C. BARR, Reg. No. 40,498; KEVIN S. ROSS, Reg. No. P-42,116; PAUL F. RUSYN, Reg. No. P-42,118; JOHN M. WECHKIN, Reg. No. P-42,216; THOMAS E. LOOP, Reg. No. P-42,810; STEPHEN J. ROSENMAN, Reg. No. P-43,058; and BRIAN L. JOHNSON, Reg. No. 40,033, comprising the firm of SEED AND BERRY LLP, 6300 Columbia Center, Seattle, Washington 98104-7092, as our attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Please direct all telephone calls to **David W. Parker** at (206) 622-4900 and telecopies to (206) 682-6031.

We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of any patent issuing from this patent application.

Dr. Michael T. Kelly

Michael T. Kelly

Date 8/20/98

Residence : City of Surrey, Province of British Columbia  
Country of Canada CAN

Citizenship : Canada

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CANADA V4A 7M4

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Raymond J. Andersen

Date \_\_\_\_\_

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Citizenship : Canada

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Jeff Gerard

Date August 1, 1998

Residence : City of Edmonton, Province of Alberta  
Country of Canada *CAX*

Citizenship : Canada

P.O. Address : 10519 62nd Street  
Edmonton, Alberta  
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Raymond J. Andersen

Date \_\_\_\_\_

Aug 31, 1998

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Citizenship : Canada

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Vancouver, British Columbia  
CANADA V6S 1Z6

**Jeff Gerard**

Date \_\_\_\_\_

Date \_\_\_\_\_  
Residence : City of Edmonton, Province of Alberta  
Country of Canada

Citizenship : Canada

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Michael T. Kelly, Raymond J. Andersen, and Jeff Gerard  
Attorney's Docket No: 850103.40301  
Application No.: 09/043,813  
Filed: March 25, 1998  
For: CYCLIC DECAPEPTIDE ANTIBIOTICS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
**(37 C.F.R. §§ 1.9(f) AND 1.27(c)) -- SMALL BUSINESS CONCERN**

I declare that I am:

- ☒ [ X ] the owner of the small business concern identified below.  
☐ [ ] an official of the small concern empowered to act on behalf  
of the concern identified below.

NAME OF CONCERN: SeaTek Marine Biotechnology, Inc.  
ADDRESS OF CONCERN: 1825 133A Street  
Surrey, British Columbia CANADA V4A 7M4

I declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §§ 121.3-18 and reproduced in 37 C.F.R. § 1.9(d) for purposes of paying reduced fees under 35 U.S.C. §§ 41(a) and 41(b) in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I declare that rights under contract or law have been conveyed to and remain with the small business concern with regard to the invention entitled:

**CYCLIC DECAPEPTIDE ANTIBIOTICS**

by inventors: Michael T. Kelly, Raymond J. Andersen, and Jeff Gerard  
as described in:

- ☐ [ ] the specification filed herewith.  
☒ [ X ] Application No. 09/043,813, filed March 25, 1998.  
☐ [ ] Patent No. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the

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\*NOTE: Separate verified statements are required from each named person, concern and organization having rights to the invention averring to his/its status as a small entity. (37 C.F.R. § 1.27)

☐ individual  
☐ small business concern  
☒ nonprofit organization

- ☐ individual
- ☐ small business concern
- ☐ nonprofit organization

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Surrey, British Columbia CANADA V4A 7M4

DATE:

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Michael T. Kelly, Raymond J. Andersen, and Jeff Gerard  
Attorney's Docket No.: 850103.40301  
Application No.: 09/043,813  
Filed: March 25, 1998  
For: CYCLIC DECAPEPTIDE ANTIBIOTICS

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 C.F.R. §§ 1.9(f) AND 1.27(d) -- NONPROFIT ORGANIZATION)

I declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

Name of Organization: University of British Columbia  
Address of Organization: Vancouver, British Columbia CANADA V6T 1Z4

## TYPE OF ORGANIZATION:

- ☒ university or other institution of higher education
- ☐ tax exempt under Internal Revenue Service Code (26 U.S.C. §§ 501(a) and 501(c)(3))
- ☐ nonprofit scientific or educational under statute of a state of the United States of America  
(Name of state: \_\_\_\_\_)  
(Citation of statute: \_\_\_\_\_)
- ☐ would qualify as tax exempt under Internal Revenue Service Code (26 U.S.C. §§ 501(a) and 501(c)(3)) if located in the United States of America
- ☐ would qualify as nonprofit scientific or educational under statute of a state of the United States of America if located in the United States of America  
(Name of state: \_\_\_\_\_)  
(Citation of statute: \_\_\_\_\_)

## CYCLIC DECAPEPTIDE ANTIBIOTICS

☐ the specification filed herewith.  
☒ Application No. 09/043,813, filed March 25, 1998.  
☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. § 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d) or a nonprofit organization under 37 C.F.R. § 1.9(e).\*

FULL NAME SeaTek Marine Biotechnology, Inc.  
ADDRESS 1825 133A Street, Surrey, British Columbia CANADA V4A 7M4

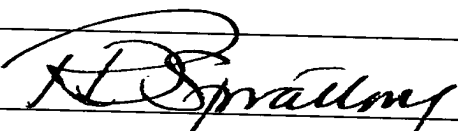
FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

- ☐ individual
- ☐ small business concern
- ☐ nonprofit organization



I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earlier of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Richard D. Spratley  
TITLE IN ORGANIZATION Director, Research Services  
ADDRESS OF PERSON SIGNING Vancouver, British Columbia CANADA V6T 1Z4  
SIGNATURE  DATE JUL 22 1998  
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